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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/370,619 08/07/99 ERLANGER

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TM02/0530

EXAMINER

CALVE, J

ART UNIT

PAPER NUMBER

2164

DATE MAILED:

05/30/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/370,619

Applicant(s)
ERLANGER, Michael D.

Examiner
Jim Calve

Art Unit
2164



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Aug 7, 1999.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-38 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-38 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- *See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892)
- 16) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 4, 7, 8,
- 18) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other: _____

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DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

2. Claims 1, 2, 7, and 31 are rejected under 35 U.S.C. 102(e) as being anticipated by Fraser et al, U.S. patent 5,995,947.

Fraser et al disclose a method, including receiving lending criteria from plural lenders (e.g., Figure 1; column 11, line 25 et seq; column 12, line 15 et seq), compiling and outputting first statistic sets on lending criteria (e.g., S224) (e.g., Figure 2; column 2, line 32 et seq; column 10, line 35 et seq; column 11, line 60 et seq) for a lender fee (e.g., column 14, line 50 et seq), and comparing loan solicitation and lender criteria (e.g., column 11, line 25 et seq).

Fraser et al also disclose price decrease as fee measure increases (e.g., loan amount) (e.g., column 14, line 53 et seq), receiving loan solicitations (e.g., at S221) (e.g., column 9, line 36 et seq), compiling second statistic set (e.g., column 2, line 37 et seq; column 12, line 15 et seq).

Claim Rejections - 35 USC § 102/103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are

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such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 8-12, 17, 18, 23-30, and 34 are rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Fraser et al, U.S. patent 5,995,947.

Fraser et al disclose a method, including receiving lending criteria from plural lenders (e.g., Figure 1; column 11, line 25 et seq; column 12, line 15 et seq), compiling and outputting first statistic sets on lending criteria (e.g., S224) (e.g., Figure 2; column 2, line 32 et seq; column 10, line 35 et seq; column 11, line 60 et seq) for a lender fee (e.g., column 14, line 50 et seq), receiving loan sale offers (e.g., from brokers 120 at S221) (e.g., column 2, line 21 et seq), receiving offers to buy a loan (e.g., column 1, line 15 et seq; column 2, line 25 et seq), receiving a loan solicitation (e.g., at S221) (e.g., column 9, line 36 et seq), comparing loan solicitation and lender criteria (e.g., column 11, line 25 et seq). Fraser et al are deemed to disclose an offer to sell and buy a loan, as broadly recited (e.g., via loan broker and lender, respectively). To the extent that Fraser et al could be interpreted otherwise, it would have been obvious to one of ordinary skill in the art at the time of the invention to utilize the method of Fraser et al to facilitate loan trading as a means of vertically integrating the method and market to include secondary mortgage market participants (e.g., column 1, line 16 et seq).

Fraser et al also disclose price decrease as fee measure increases (e.g., loan amount) (e.g., column 14, line 53 et seq), receiving loan solicitations (e.g., at S221) (e.g., column 9, line 36 et seq), compiling second statistic set (e.g., column 2, line 37 et seq; column 12, line 15 et seq), loan offers and bids (e.g., column 2, line 20 et seq), outputting indicium of loan seeker identify to

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lender (e.g., column 13, line 50 et seq), receiving an offer to buy a loan (e.g., a bid) (e.g., column 13, line 4 et seq), earning a fee (e.g., column 14, line 49 et seq). Fraser et al are deemed to disclose an offer to sell and buy a loan, as broadly recited (e.g., via loan broker and lender, respectively). To the extent that Fraser et al could be interpreted otherwise, it would have been obvious to one of ordinary skill in the art at the time of the invention to utilize the method of Fraser et al to facilitate loan trading as a means of vertically integrating the method and market to include secondary mortgage market participants (e.g., column 1, line 16 et seq).

Claim Rejections - 35 USC § 103

5. Claims 3-6, 13-16, 19-22, 32, 33, and 35-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fraser et al, U.S. patent 5,995,947, in view of either of Gottesman et al, U.S. patent 6,049,782.

Fraser et al disclose a method, including receiving lender criteria (e.g., Figure 1; column 11, line 25 et seq; column 12, line 15 et seq), receiving an offer to sell (e.g., from brokers 120 at S221) (e.g., column 2, line 21 et seq), lending and trading (e.g., column 1, line 16 et seq), and variable fee structure (e.g., column 14, line 49 et seq). Fraser et al do not disclose specific reduced fee structure based on coordinated lending and trading by a party. To the extent that such a fee structure would not have been obvious to one of ordinary skill in the art at the time of the invention (e.g., to encourage and reward multiple transactions by users, to facilitate transaction pricing of users), Gottesman et al, U.S. patent 6,049,782 disclose a method including outputting an indicium that a first portion of a fee is credited against a second measure of fees based on a user's maintenance of multiple business/transactional relationships with a financial

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institution (e.g., checking account, savings account, CDs, mortgage(s)) (e.g., column 2, line 7 et seq). Volume discount of service fees provides an improved means to encourage and reward customer/user loyale (e.g., Gottesman et al; column 3, line 20 et seq).

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- a. Mumick et al, U.S. patent 6,006,207.
- b. Zandi, U.S. patent 5,966,699.
- c. McClellant et al, U.S. patent 5,689,650.
- d. Rothstein, U.S. patent 5,636,117.
- e. Dlugos, U.S. patent 5,444,630.
- f. Cohen et al, U.S. patent 4,750,119.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jim Calve, whose telephone number is (703) 308-1884. Examine can be reached on Monday through Friday from 6:45 am to 6:45 pm. If the examiner is unavailable, the examiner's supervisor, Vincent Millin, may be reached at 703-308-1065. The fax number of the organization is 703-305-9051/9052. Any inquiry of a general nature should be directed to the receptionist at 703-305-3900.

JPC
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May 24, 2001